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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/824,410

04/15/2004

Steven W. Mitchell

36762-185254

6466

26694

7590

02/13/2006

VENABLE LLP

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EXAMINER

SOTOMAYOR, JOHN B

ART UNIT

PAPER NUMBER

3662

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/824,410

Applicant(s)

MITCHELL, STEVEN W.

Examiner

John B. Sotomayor

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>15APR04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings filed April 15, 2004 are acceptable.

### ***Information Disclosure Statement***

2. The information disclosure statement filed April 15, 2004 has been entered and considered. An initialed copy of the PTO-1449 by the Examiner is attached.

### ***Claim Rejections - 35 USC § 102***

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 9-11, 14-19, and 23-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Daily et al ('462) or Aratow et al ('008) or Filo et al ('498).

Daily et al ('462) show a display system including, inter alia, a display, a sensor, a computer, and means for detecting a "physical gesture" of a human operator. The term "physical gesture" can be read on a variety of possible interpretations. Typing on a keyboard is considered to meet the recitation of this feature since the computer detects

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the physical gesture of one's fingers on the keyboard and reacting accordingly.

Therefore the interpretation of claim 1 is considered to be very broad in scope. Daily et al ('462) disclose that the invention could be used in air traffic control, among other applications. The system includes head tracking and user interface control software. The system also uses and tracks the gaze direction of the user. The system of Daily et al ('462) also includes a data glove that interacts with the display system.

Aratow et al ('008) show a display system including, inter alia, a display, a sensor, a computer, and means for detecting a "physical gesture" of a human operator. The term "physical gesture" can be read on a variety of possible interpretations. Typing on a keyboard is considered to meet the recitation of this feature since the computer detects the physical gesture of one's fingers on the keyboard and reacting accordingly. Therefore the interpretation of claim 1 is considered to be very broad in scope. Aratow et al ('008) disclose that the invention could be used in air traffic control, among other applications. The system discloses that heading and speed information can be displayed either through a toggle feature or a mouse-over gesture.

Filo et al ('498) show a display system including, inter alia, a display, a sensor, a computer, and means for detecting a "physical gesture" of a human operator. The term "physical gesture" can be read on a variety of possible interpretations. Typing on a keyboard is considered to meet the recitation of this feature since the computer detects the physical gesture of one's fingers on the keyboard and reacting accordingly. Therefore the interpretation of claim 1 is considered to be very broad in scope. Filo et al

('498) disclose that the invention could be used in air traffic control, among other applications.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-8, 12, 13, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daily et al ('462) or Aratow et al ('008) or Filo et al ('498).

As to these claims, Examiner submits that since each of the systems can be used in an air traffic control system environment then those parameters associated with air traffic control systems, such as, aircraft data, etc. would be obvious to implement in the systems of Daily et al ('462) or Aratow et al ('008) or Filo et al ('498).

Therefore it would be obvious to one of ordinary skill in the art at the time the invention was made to use provide the claimed aircraft traffic control parameters given that these claimed parameters are well known in the ATC art.

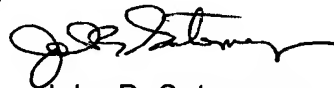
***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art show various display systems.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Sotomayor whose telephone number is 571-272-6978. The examiner can normally be reached on Monday to Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom H. Tarcza, can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John B. Sotomayor  
Primary Examiner  
Art Unit 3662